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ELECTRONICALLY
FILED
Superior Court of California, County of San Francisco
09/10/2024
Clerk of the Court
BY: AUSTIN LAM
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

CEPHEUS DAVIS, CHARLES GARDNER CHERYL HOWARD, CURTIS SEAVER, DONALD DOSS, DUANE FIELDS, FRANCIS LENNON, IM PARSONS, IMELDA PENATE, ISREAL WILLIAMS JENNIFER LYNN HAUN, JONI PERKINS LATRICIA JACKSON, LOUISE IRISH LYNICIA THOMAS, MARIO PENA MATTHEW WARNER, MICHAELA NICKERSON, MICHELLE GREEN, NATHANIAL KELLY, QUINTON BUTTARS, QUINZO COLLINS, ROGER BASSO, SAMMY STERIO, TERRY LANE, TYRONE SHINGLEDECKER,CARLOS HERNANDEZ, MICHAEL ROSE, and LAURA RUMBO

Plaintiffs,

V.

MISSION HOTEL, LLC, TENDERLOIN HOUSING CLINIC, INC. AND DOES 1-20,

Defendants.

CASE NO.

CGC-24-617962

COMPLAINT FOR DAMAGES

1. **Negligence**
2. **Breach of Contract**
3. **Breach of the Implied Warranty of Habitability**
4. **Violation of Statute (Civil Code §§ 1941.1, 1941.3, 1942.4, Health & Safety Code 17920.3)**
5. **Retaliation in Violation of Statute (Civil Code 1942.5)**
6. **Unfair Business Practices in violation of Bus. & Professions Code § 17200**
7. **Violation of Health and Safety Code § 13260**
8. **Nuisance**
9. **Violation of San Francisco Administrative Code § 37.10**
10. **Violation of San Francisco Administrative Code § 37.11**

DEMAND FOR JURY

THE PARTIES

1. Plaintiff Cepheus Davis, ("Davis387") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #387 San Francisco, CA, 94110. 520 S. Van Ness Street is a Single Room Occupancy (hereinafter, "SRO") building at the corner of South Van Ness and 16th Street in San Francisco ("Premises").

2. Plaintiff Charles Gardner, ("Gardner248") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #248, SF, CA, 94110.

3. Plaintiff Cheryl Howard, ("Howard299") is an individual and current tenant within the City and County of San Francsico, and lives at 520 S. Van Ness Street, Unit #299, SF, CA, 94110.

4. Plaintiff Curtis Seaver, ("Seaver216") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #216, SF, CA, 94110.

5. Plaintiff Donald Doss, ("Doss318") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #318, SF, CA, 94110.

6. Plaintiff Duane Fields, ("Fields133") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #133, SF, CA, 94110.

7. Plaintiff Francis Lennon, ("Lennon148") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #148, SF, CA, 94110.

8. Plaintiff IM Parsons, ("Parsons319") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #319, SF, CA, 94110.

9. Plaintiff Imelda Penate, ("Penate320") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street Unit #320, SF, CA, 94110.

10. Plaintiff Israel Williams, ("Williams373") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #125, SF, CA, 94110.

11. Plaintiff Jennifer Lynn Haun, ("Haun373") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #373, SF, CA, 94110.

12. Plaintiff Joni Perkins, ("Perkins156") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #156, SF, CA, 94110.

13. Plaintiff Latricia Jackson, ("Jackson328") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #328, SF, CA, 94110.

14. Plaintiff Louise Irish, ("Irish108") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #108, SF, CA, 94110.

15. Plaintiff Lynicia Thomas, ("Thomas148") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #148, SF, CA, 94110.

16. Plaintiff, Mario Pena ("Pena289") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #289, SF, CA, 94110.

17. Plaintiff, Matthew Warner ("Warner359") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #359, SF, CA, 94110.

18. Plaintiff, Michaela Nickerson ("Nickerson207") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #207, SF, CA, 94110.

19. Plaintiff Michelle Green, ("Green315") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #315, SF, CA, 94110.

20. Plaintiff Nathaniel Kelly ("Kelly327") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #327, SF, CA, 94110.

21. Plaintiff Quinton Buttars, ("Buttars207") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #207, SF, CA, 94110.

22. Plaintiff Quinzo Collins, ("Collins392") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #392, SF, CA, 94110.

23. Plaintiff Roger Basso, ("Basso126") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #126, SF, CA, 94110.

24. Plaintiff Sammy Sterio, ("Sterio150") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #150, SF, CA, 94110.

25. Plaintiff Terry Lane, ("Lane351") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #351, SF, CA, 94110.

26. Plaintiff Tyrone Shingledecker, ("Shingledecker325") is an individual and current tenant within the City and County of San Francisco, and formally lived at 520 S. Van Ness Street, Unit #325, SF, CA, 94110.

27. Plaintiff Carolos Hernandez, ("Hernandez361") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit # 361, SF, CA, 94110.

28. Plaintiff Michael Rose, ("Rose391") is an individual and current tenant within the City and County of San Francisco, and lives at 520 S. Van Ness Street, Unit #391, SF, CA, 94110.

29. Plaintiff Laura Rumbo, ("Rumbo314") is an individual and current tenant within the City and County of San Francisco, and formally lived at 520 S. Van Ness Street, Unit #314, SF, CA, 94110.

30. Defendant 32-40 6th Street, LLC, ("LLC") has been the property owner of the Premises at all times relevant to this Complaint.

31. Defendant Tenderloin Housing Clinic, Inc., ("TLC") has been the property manager for the Premises at all times relevant to the Complaint.

32. The true names and capacities of the Defendants sued as Does are unknown to Plaintiffs. Once Plaintiffs became aware of the true names and capacities of Defendants sued as Does, Plaintiffs will amend the Complaint to reflect the true names and capacities of those Defendants. In committing the acts complained of herein, each Defendant acted as an authorized agent,

employee, or other representative of each other Defendant. Each act of each Defendant complained of herein was committed within the scope of the said agency, employment, or other representation. References to "Defendant" or "Defendants" shall mean all of them, unless the context suggests otherwise.

JURISDICTION AND VENUE

33. This court is the proper court because the making of the written contract (lease) which is the subject of this action occurred exclusively within the jurisdictional area of the City and County of San Francisco. Further, Plaintiffs' damages were arose within the jurisdictional area of the City and County of San Francisco.

34. Plaintiffs have suffered damages which include but are not limited to property loss, bodily injury, loss of services, loss of use and emotional distress in amounts to be demonstrated by proof at the time of trial. Each loss was proximately caused by Defendants' acts and/or omissions and those of their employees, agents and representatives.

35. In committing the acts complained of herein, Defendants acted willfully and with malice, oppression, and bad faith, intending by their acts to cause Plaintiffs to involuntarily vacate their homes or sustain other damages. Plaintiffs are entitled to recover punitive damages to the extent allowable by law.

36. At all times relevant, Plaintiffs are or were lawful residential tenants of Defendants at the Premises located at 34 Sixth Street, San Francisco, CA, 94103, secured by a written lease agreement. Implied in the lease agreement was the warranty of habitability and the covenant of quiet use and enjoyment.

RELEVANT BACKGROUND

37. At the time Defendants entered into possession of their respective units at the Premises, and thereafter during the Plaintiffs' tenancies, there existed and continued to exist certain defects in the Premises not caused by Plaintiffs which rendered the Premises uninhabitable for occupancy. These defects include but are not limited to the following:

- Severe infestation of roaches;

- Severe infestation of mice and rats;
- Presence of black mold in Common Restrooms/Showers and Tenant Rooms;
- Unsanitary bathrooms including clogged toilets and non-functioning toilets throughout the building;
- Water dripping from ceiling indicating leaking plumbing and water intrusion;
- Hazardous and defective plumbing installations of fixtures that allowed for toxic mold growth;
- Most units do not have carbon monoxide detectors or working smoke detectors;
- Door Jams that do not lock properly;
- Non-Working electrical outlets;
- Windows that are cracked and never repaired so as to allow for weather intrusion;
- Unlawful rent increases and collection practices.

38. The Premises is also considerably unsafe both inside of the building and directly outside of the Premises. The lack of security allows individuals who are not residents to enter the Premises to commit crime and use narcotics wherever they please. Plaintiffs have been subjected to theft, threats of violence, physical assaults, and constant harassment by other tenants and individuals not residing at the property. This factor also contributes to additional debris including drug paraphernalia like glass pipes and needles, garbage and other debris throughout the building. This is exacerbated by the lack of doors that lock.

39. Outside of the Premises is an open drug market with all the crime that stems from narcotics trade and sales, including robberies and homicide. Defendants have taken no steps to prevent any of this activity within areas subject to their reasonable control.

40. Plaintiffs, individually and collectively, have complained repeatedly to Defendants about the defects affecting the habitability of the Premises. Defendants, and each of them, knew of defects directly and were informed of the defective conditions but failed to remediate the defects so as to render the Premises habitable.

41. When Plaintiffs complained about the Premises, they were subject to intimidation, harassment and threats of eviction by the Defendants in retaliation for their complaints.

FIRST CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Negligence

42. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

43. Defendants by their relationship as landlords owed a duty of care to Plaintiffs. Defendants by the acts and omissions detailed above breached their duty of care to Plaintiffs.

44. Defendants' breach of their duty of care directly and proximately caused the damages, entitling Plaintiffs to recover damages according to proof.

SECOND CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Breach of Contract

45. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

46. Plaintiffs and Defendants had contracts, to wit, leases, the essential terms of which were as follows: Plaintiffs for their part would pay an agreed-upon sum for rent at an agreed-upon time. Defendants, for their part, would provide habitable premises for Plaintiffs to occupy as residences.

47. Plaintiffs performed all terms of the contract which they were obliged to perform, or Plaintiffs were excused from performing them.

48. Defendants breached the terms of the contracts by failing to provide habitable premises to the Plaintiffs in the manner otherwise detailed herein.

49. Defendants' breach gave rise to damages which Plaintiffs are entitled to recover, according to proof.

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THIRD CAUSE OF ACTION
By All Plaintiffs as to all Defendants
Breach of the Implied Warranty of Habitability

50. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

51. By renting the Premises to Plaintiffs, Defendants impliedly warranted to provide and maintain those Premises in a habitable condition. Defendants owed a legal duty to Plaintiffs to provide and maintain habitable Premises. By committing the acts and omissions complained of above, Defendants breached their duty. Defendants' breach of their legal duty proximately caused the damages to Plaintiffs complained of.

52. As a proximate result of Defendants' unlawful acts against Plaintiffs, Plaintiffs have suffered and continues to suffer damages in an amount according to proof.

53. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of harassing Plaintiffs, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiffs' rights and safety. Plaintiffs are therefore entitled to recover punitive damages from Defendants.

FOURTH CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Violation of Statutes under Civil Code sections 1941.1, 1941.3, 1942.4, and Health and Safety Code section 17920.3

54. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

55. The laws of the State of California, including but not limited to California Civil Code §§1941.1, 1941.3 and Health & Safety Code § 17920.3 require Defendants to provide and maintain habitable Premises for Plaintiffs. By their acts and omissions as alleged hereinabove, Defendants, and each of them, violated Civil Code §§ 1941, 1941.3 and Health and Safety Code §17920.3. In so doing, Defendants caused and proximately caused the damages and injuries to Plaintiffs complained of herein, entitling Plaintiffs to damages according to proof.

56. Further, Defendants were informed in writing by a public officer or employee who is responsible for the enforcement of housing laws of the above-enumerated dilapidations and substandard conditions; the conditions existed and were not abated 35 days beyond date of service of the public officer's notice, and were not cause by acts or omissions of the tenants. As such, Plaintiffs are entitled to an award of special damages and the cost of their reasonable attorney fees as detailed in Civil Code section 1942.4.

57. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of harassing Plaintiffs, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiffs' rights and safety. Plaintiffs are therefore entitled to recover punitive damages from Defendants in an amount according to proof.

FIFTH CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Retaliation in Violation of Civil Code § 1942.5

58. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

59. California Civil Code § 1942.5 makes it unlawful for a landlord to retaliate against tenants who complain about their housing tenantability with threats of eviction, causing a tenant to quit involuntarily, increasing the rent, or decreasing any services.

60. By their acts, Defendants violated Civil Code § 1942.5, and did so in a fashion that was fraudulent, oppressive, and malicious; Plaintiffs are entitled to an award of damages according to proof, to an award of punitive damages, and to an award of their reasonable attorney fees.

SIXTH CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Unfair Business Practices in Violation of B&P§ 17200

61. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

62. California Business & Professions Code § 17200 makes it unlawful to engage in unlawful, unfair or fraudulent business acts or practices.

63. By the acts and omissions alleged hereinabove, Defendants engaged in business acts and practices which were variously unlawful, unfair, and fraudulent. Plaintiffs are entitled to the restoration of monies taken from them by these unlawful, unfair, and fraudulent business practices.

SEVENTH CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Violation of Health & Safety Code § 13260 et. seq.

64. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.

65. California Health and Safety Code section 13260 *et seq.* obligates Defendants to install a carbon monoxide alarm device in each dwelling unit intended for human occupancy on or before January 1, 2013.

66. Defendants failed to install such devices on the Premises, and have not done so.

67. Under Health and Safety Code section 17926, Plaintiffs are entitled to an award of actual damages of up to $100, exclusive of court costs and attorney fees, according to proof.

EIGHTH CAUSE OF ACTION
By all Plaintiffs as to all Defendants
Nuisance

68. The allegations of paragraphs 1 through 77 above are realleged and incorporated herein by reference.

69. Defendants created a nuisance at the Property by interfering with Plaintiffs' use and enjoyment of the Property by allowing the conditions named above and others, to exist after being informed of their existence and being given an ample opportunity to correct these conditions.

70. The aforementioned conditions were harmful to Plaintiffs' health, offensive to Plaintiffs' senses, and obstructed the free use of the property so as to infer with the comfortable enjoyment of the property.

71. Plaintiffs made several complaints to all Defendants regarding the uninhabitable conditions of plaintiff's apartment and Defendants failed and refused to remedy the conditions.

72. As a direct and proximate result of the aforementioned conditions on the subject premises Plaintiffs were reasonably annoyed and/or disturbed by the condition of each of their respective units. Furthermore, Plaintiffs were harmed by these conditions and incurred out of pocket expenses, suffered emotional distress, and did not receive the full benefit of Plaintiffs' home. The harm to Plaintiffs outweighs any potential benefits, if any exist, of Defendants' conduct. As a direct and proximate cause of Defendants' failures. Plaintiffs suffered damages as specified in this complaint.

73. Wherefore Defendants are liable to Plaintiffs for damages caused thereby, according to proof at trial.

NINTH CAUSE OF ACTION

VIOLATION OF SAN FRANCISCO ADMINISTRATIVE CODE § 37.10

By All Plaintiffs As Against All Defendants

74. The allegations of the above paragraphs are and incorporated herein by this reference as if fully set forth herein.

75. Section 37.10B of the San Francisco Administrative Code prohibits landlords or their agents from engaging in certain conduct in bad faith. Those prohibited acts include:

- Interrupt, terminate or fail to provide housing services required by contract or by State, County or local housing, health or safety laws;
- Fail to perform repairs and maintenance required by contract or by State, County or local housing, health or safety laws;
- Fail to exercise due diligence in completing repairs and maintenance once undertaken or fail to follow appropriate industry repair, containment or remediation protocols designed to minimize exposure to noise, dust, lead, paint, mold, asbestos, or other building materials with potentially harmful health impacts;

- Interfere with a tenant's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;
- Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy."

76. In addition to their failure to remediate the above-listed problems, Defendants failed to provide housing services as required by the lease and by Section 37.10B. Further, Defendants failed to perform repairs and maintenance, as well as exercise due diligence in completing repairs and maintenance, as they are required to do under the lease and by Section 37.10B.

77. The above acts were committed in bad faith, without innocent motive and for reasons unrelated to lawful management of the UNIT.

78. Pursuant to Section 37.10B(c)(5), PLAINTIFFS are entitled to damages for each and every of Defendants' municipal code violations, detailed hereinabove, in the amount of not less than three (3) times PLAINTIFFS' actual damages or damages in the sum of $1,000.00 per violation, whichever is greater.

79. As a result of Defendants' violations, PLAINTIFFS were required to retain legal counsel to enforce his legal rights.

80. Defendants' acts were the direct and proximate cause of harm to PLAINTIFFS, in amounts to be proven at trial.

81. Wherefore PLAINTIFFS pray for the damages stated below.

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TENTH CAUSE OF ACTION

VIOLATION OF SAN FRANCISCO ADMINISTRATIVE CODE § 37.11A

By All Plaintiffs As Against All Defendants

82. The allegations of the above paragraphs are and incorporated herein by this reference as if fully set forth herein.

83. San Francisco Administrative Code Section 37.11A prohibits landlords or their agents from engaging in certain conduct, including without limitation the charging of rent in amounts exceeding the limitations set forth in Chapter 37 and acting to prevent a tenant from acquiring rights under Chapter 37.

84. Defendants violated Section 37.11A by interfering with PLAINTIFFS' quiet enjoyment as described hereinabove, the legal result of which was a reduction of services amounting to an unlawful rent increase in violation of Section 37.11 and an involuntary surrender by PLAINTIFFS of certain rights arising under Chapter 37.

85. Defendants' violations constitute a nonconforming rent increase under the Residential Rent Stabilization and Arbitration Ordinance.

86. As a result of Defendants' violations, PLAINTIFFS were required to retain legal counsel to enforce his legal rights.

87. PLAINTIFFS are therefore entitled to recover the amounts of rent constituting a non-conforming rent increase under Chapter 37, and to recover the reasonable attorney fees incurred in so doing.

88. Wherefore PLAINTIFFS pray for the damages stated below.

EXEMPLARY DAMAGE ALLEGATION

89. The allegations of the above paragraphs are incorporated herein by reference.

90. Defendants' acted to cause injury or was despicable and undertaken with a willful and knowing disregard of the rights or safety of others in that their persistent failure to maintain minimal standards of habitability in the Premises – even after multiple, repeated notices from Plaintiffs to do so – reflects awareness of the probable dangerous

consequences of their conduct, which they deliberately failed to avoid; additionally, their disregard is shown by their retaliatory actions against Plaintiffs in blatant contravention of law and in a fashion which caused Plaintiffs unnecessary and gratuitous hardship. Defendants acted maliciously within the meaning of section 3294.

91. Defendants' acted to cause injury or was despicable and undertaken with a willful and knowing disregard of the rights or safety of others in that their persistent failure to maintain minimal standards of habitability in the Premises – even after multiple, repeated notices from Plaintiffs to do so – reflects awareness of the probable dangerous consequences of their conduct, which they deliberately failed to avoid; additionally, their disregard is shown by their retaliatory actions against Plaintiffs in blatant contravention of law and in a fashion which caused Plaintiffs unnecessary and gratuitous hardship. Defendants acted maliciously within the meaning of section 3294.

92. Defendants' conduct was such as to intentionally misrepresent and conceal material facts in a fashion intending to cause harm to Plaintiffs, in that Defendants represented to Plaintiffs their intention to provide them clean, habitable units for the their use; additionally, Defendants acted fraudulently towards Plaintiffs' payors in misrepresenting the units as habitable when in fact they were not. Defendants acted fraudulently within the meaning of section 3294.

93. Defendants' conduct as detailed above was thus malicious, fraudulent, and oppressive within the meaning of California Civil Code § 3294. Accordingly, Plaintiffs should recover, in addition to all compensatory damages, exemplary damages to deter similar conduct in the future, make an example of Defendants, and punish Defendants.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. For general and special damages according to proof;

B. For statutory damages;

C. That Defendants be ordered to abate all conditions which cause the nuisance;

D. That Defendants be enjoined from occupying the Property and/or allowing the Property to be occupied until such time as the building on the Property is brought up to code or demolished;

E. The recordation of an abstract of judgment in this case constitutes a prior lien that may be held on the Property by any Defendant to this action.

F. Prejudgment interest, unless duplicative of relief obtained under other causes of action;

G. For attorney's fees pursuant to statute including but not limited to California Civil Codes §§ 1941.3, 1942.4.

H. That Defendants disgorge all wrongfully retained profits under Business and Professions Code section 17200;

I. For punitive damages according to proof;

J. For any and all other relief which the Court deems proper and just.

Dated: August 28, 2024

//Edward M. Higginbotham//_____
Edward M Higginbotham
Attorney for Plaintiffs